

1  
2 John R. Benefiel (P 28970)  
3 280 Daines Street  
4 Suite 100 B  
Birmingham, Michigan 48009-6244  
248-644-1455

5 Charles F. Reidelbach, Jr. (167482)  
6 PRESSEISEN & REIDELBACH  
7 The Chamber Building  
8 110 West "C" Street; Suite 714  
San Diego, California 92101  
619-234-4057  
Attorneys for Defendant

9  
10 IN THE UNITED STATES DISTRICT COURT  
11 SOUTHERN DISTRICT OF CALIFORNIA

12 NEW AGE PRODUCTS, INC., Case No. 96 2129 J CGA

13 Plaintiff,

14 v

15 PROGRESSIVE INTERNATIONAL  
16 CORPORATION,

17 Defendant.

18 \_\_\_\_\_  
19 PROGRESSIVE INTERNATIONAL  
CORPORATION,

20 Counterclaimant,

21 v

22 NEW AGE PRODUCTS, INC.,

23 Counterdefendant.

24 \_\_\_\_\_/  
25 DECLARATION OF WILLIAM FISHMAN

26 William Fishman, of 17632 Tam O'Shanter Drive, Poway,  
27 California 92064, makes the following Declaration:  
28

000385

1 I am the President of Marketing Services, Inc., a consulting  
2 services business I conduct in the field of marketing from my home  
3 in Poway, California.

4 I make this Declaration under penalty of perjury. The  
5 statements are made of my own personal knowledge and if called to  
6 testify on the witness stand, I would testify in the same manner  
7 as set forth herein.

8 Sometime in 1980, I had contacts with a Mrs. Marian Gillett,  
9 then of 16950 Tesoro Drive, Rancho Bernardo, California,  
10 concerning a kitchen product she had invented. This product was  
11 a flexible kitchen cutting mat.

12 Mrs. Gillett and I agreed that, through my company, Market  
13 Services, Inc., then operated from 11650 Iberia Place, San Diego,  
14 California, we would jointly attempt to market her cutting mat.

15 Pursuant to that effort, in late 1980, I commissioned art  
16 work to be developed for the product packaging insert, the product  
17 to be sold under the trademark "CounterMaid", and attached as  
18 Exhibit 1 is a true copy of that artwork.

19 Mrs. Gillett obtained a quotation for plastic sheets from a  
20 supplier, John E. Stoneman, Inc. of Newport Beach, California, and  
21 attached as Exhibit 2 is a true copy of a quotation she provided  
22 me.

23 In July of 1981, I purchased 3,000 sheets of plastic from  
24 John E. Stoneman, Inc. to be sold as CounterMaid cutting mats, and  
25 attached as Exhibit 3 is a true copy of an invoice covering that  
26 purchase.

27 Over the following months extending into 1982, the  
28 CounterMaid product was offered for sale and sold through various

1 retail outlets in California and elsewhere.

2 I have at my residence a leftover quantity of the original  
3 CounterMaid mats from the original 3,000 purchased in 1981.

4 At the request of John R. Benefiel, Defendants' counsel, on  
5 or about October 30, 1997 I took samples of these CounterMaid mats  
6 to OCM Laboratories of Anaheim, California for testing.

7 I declare under penalty of perjury that the foregoing is true  
8 and correct.

9  
10 Date:

Dec 30, 1997

William Fishman

William Fishman



**COUNTER-MAID®**

THE REUSABLE...

**FLEXIBLE**

**KITCHEN BOARDS!**

**KEEPS YOUR COUNTERTOP ALWAYS NEW!**

## **HELPFUL HINTS**

### **KEEP IT HANDY**

- A "must" for every kitchen
- Keep one in dad's workshop too!
- Don't forget the camper.

### **EASY TO CLEAN**

- Just rinse with water for most jobs.
- For greasy clean-up ... wipe with paper towel or stand between two plates in dishwasher.
- Will not absorb stains - grape, mustard, even Easter egg dye.

### **MAKE IT NON-SLIP AT THE KITCHEN COUNTER**

- Spread 2 tsp. MINERAL OIL over clean counter and smooth out air bubbles (with straight edge tool such as a food turner). Press the oil out with long strokes until it adheres without slipping.
- Place a second one on top so you can still curl & funnel.

ANOTHER GILLETT PRODUCT FROM  
**MARKETING SERVICES, INC.**  
SAN DIEGO, CALIFORNIA

PATENT  
PENDING

000388

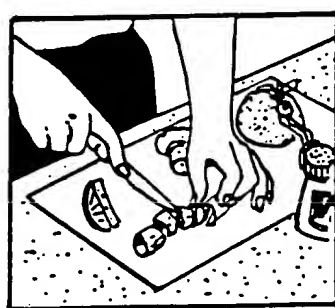
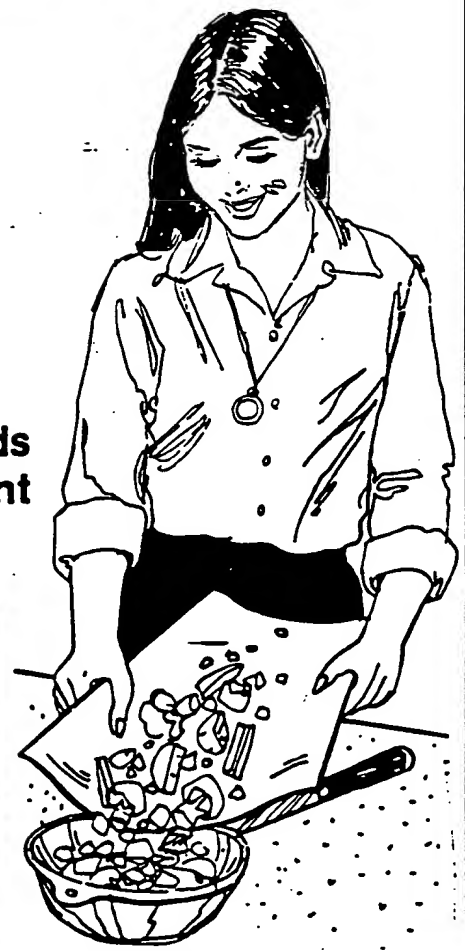


PACK OF  
**3** FOR **\$2<sup>59</sup>**

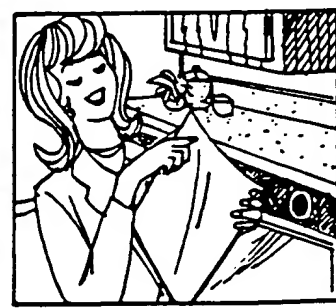


THE REUSABLE...  
**FLEXIBLE**  
**KITCHEN  
 BOARDS**

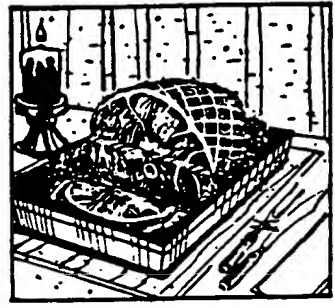
Protects your kitchen counters, cutting boards and chopping blocks from expensive permanent damage due to cuts and stains.



**CUT & CHOP FOODS!**  
 SALADS! CHEESE! MEAT!  
 VEGETABLES!  
 SAVES KITCHEN COUNTER



**MORE SANITARY!**  
 Easy to wash. Dishwasher safe.  
 Prevents bacteria build up. Non-  
 toxic. Unbreakable.



**CARVE ROASTS! SAVES  
 KNIFE SHARPENINGS!**  
 Remove roast from pan & carve  
 it on your COUNTER-MAID®

**IT'S SHAPEABLE!**  
 Bend it, shape it into a funnel for any  
 vessel. Ideal for preparing foods for  
**CASSEROLES, SALADS,  
 WOK OR SKILLET**  
 Cut, slice and chop your foods  
 right on a handy "COUNTER-MAID"  
 kitchen board then use it to scoop  
 and funnel it right into your cooking  
 or serving dish.

**ALSO IDEAL FOR:**  
**PROTECTING SINKS FROM SCRATCHES WHEN POT WASHING.**  
**KNEADING AND ROLLING DOUGH, SIFTING FLOUR (Won't stick)**

John E. Stoneman, Inc.  
2043 Westcliff Drive  
Suite 211  
Newport Beach, CA  
92660  
Telex 181-577  
Telephone  
714 645-7261

August 29, 1980

Mrs. Marian Gillett  
16950 Tesoro Drive  
San Diego CA 92128

Dear Mrs. Gillett:

Listed below is confirmation of prices quoted verbally to  
you on August 27th.

		<u>10,000</u>	<u>30,000</u>	<u>50,000</u>
9 mil	12" x 14"	110.14/M	92.44/M	83.33/M
	12" x 15"	116.90/M	98.65/M	89.03/M
	12" x 16"	123.80/M	104.85/M	94.78/M
10 mil	12" x 14"	120.76/M	102.11/M	92.20/M
	12" x 15"	130.08/M	108.96/M	98.47/M
	12" x 16"	135.84/M	115.87/M	104.82/M
12 mil	12" x 14"	142.00/M	121.40/M	109.88/M
	12" x 15"	151.10/M	129.69/M	117.48/M
	12" x 16"	160.18/M	137.95/M	125.05/M

These prices are figured without the special packaging.  
Let us know if you need further information. We will  
send some 10 mil samples as soon as available.

Yours truly,

*Charlotte Hampton*  
Charlotte Hampton (af)

CH:at

000390

# JESINC

John E. Stoneman, Inc.  
2043 Westcliff Drive  
Suite 211  
Newport Beach, CA  
92660

Telex 181-577  
Telephone  
714 645-7261

## INVOICE

No 9557

Marion Gillette  
Marketing Services Inc.  
11660 Iberia Place  
San Diego, Ca 92128

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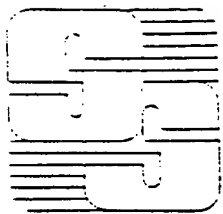
Same

Invoice Date	7-29-81	Terms	1%/10/N30	Your Order No.	Verbal	Salesman	House	Our Ref. No.
Date Shipped	7-22-81	Shipped Via	UPS					
Qty. Shipped	3000							
	1000							
		Description	Newport Beach, Ca					
		11 1/2 x 15	9 mil Kleer Kards	Unit Price	Unit	Amount		
		6 1/2 x 5	9 mil Kleer Kards	\$ 175.00	Lot	\$ 175.00		
		UPS Charge				\$ 21.74		
		Shipment Complete				\$ 196.74		

A service charge of 1% per month on the unpaid balance will be made on all past due accounts. Should this rate exceed the maximum rate that is lawful under the circumstances, that maximum rate shall apply. Customer also agrees to pay reasonable attorney's fees and other costs incurred at collection.

ORIGINAL

000331



# Vitrone

## rigid P.V.C. sheet

Worple Road

### 4. VITRONE EXTRUDED SHEET

- A. Vitraplus clear sheet for rooflights, domelights and space glazing. Of good weatherability and satisfying the fire requirements of BSS 476 part 7 Vitraplus is also protected both sides with strippable polythene film

*Thickness range: 1.00 to 12.00 mm*

*Sheet size: 2440 x 1220 mm*

*3000 x 1220 mm*

*6000 x 1220 mm*

*3000 x 1500 mm*

*6000 x 1500 mm*

*other sizes by arrangement subject to minimum 50 sheet lots.*

- B. Vitrone E industrial grey.

2 colours are available, dark grey RI153 and light grey RI117.

Vitrone E is suitable for all types of fabrication of process plant. It is also NON-TOXIC so can also be used for the fabrication of food handling equipment.

Size range is as for Vitraplus.

- C. Vitrone E colours.

Also in the same range of sizes as Vitraplus, Vitrone E can be supplied to colour match for minimum 5000 kg lots.

### 5. VITRONE PRESSED CLEAR WIRE LAMINATE

To complement Vitraplus, Vitrone clear wire laminate is available to satisfy the most stringent of fire regulations.

Satisfying BSS 476 part 3, it allows designers complete freedom in their choice of glazing materials.

FO

P.E. Lam  
patisserie  
chill cabi  
atmosph

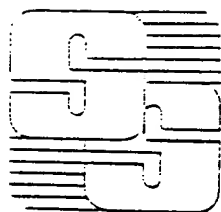
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# Stanley Smith & Co Plastics Ltd

Worple Road, Isleworth, Middlesex, TW7 7AU, England. Tel: 01 568 6831. Telex: 897918 SS PLAS G. Telegrams: Stanmith, Isleworth, England.

## Vitrone

### P.V.C. LAMINATES

## FOR CLEAR VISUAL FOOD PACKAGING WITH ATMOSPHERIC CONTROL

Today's packaging industry demands clear visual packs for maximum product visibility. Vitrone clear coloured p.v.c. sheet is a long established market leader. Now to satisfy the need for long shelf life and protection to sensitive foodstuffs, pharmaceuticals and other high value items, high barrier properties are available in NEW VITRONE P.E. and P.V.D.C. LAMINATES.

Vitrone laminates are formulated especially to give clear, clear structural packs without pinholing or delamination, and packs in Vitrone are compatible with a wide variety of filling materials.

#### LAMINATE

P.E. Laminates are for fresh meat, fish and poultry, pasta, patisserie — in fact any product needing longer shelf life in chill cabinets either with or without gas flushing for atmospheric control.

Standard combinations are:-

300 micron p.v.c./70 micron p.e.

550 micron p.v.c./100 micron p.e.

650 micron p.v.c./100 micron p.e.

But others are available as needed

#### P.V.D.C. LAMINATE

P.V.D.C. Laminates are principally for the protective packing of pharmaceuticals and moisture sensitive tablets although some very long shelf-life fresh food packaging is also produced from these laminates.

#### Availability:

Based on lamination with Saranex from the Dow Chemical Co, they are available in a wide range of thicknesses. Vitrone p.v.c./p.v.d.c. laminates can be used for visual packaging but under certain circumstances e.g. drug packaging, an opaque film is needed in white or a safety colour such as orange or amber for tamper-evident or child resistant packaging.

#### Range:

For these reasons there is no standard range of Vitrone p.v.c./p.v.d.c. laminates. Rather, they are produced to order to satisfy the requirements of particular packaging specification.

#### PROPERTIES:

Vitrone p.v.c./p.v.d.c. laminates offer a very high barrier to oxygen and water vapour. Typical values are shown as follows:-

MATERIALS	* W.V.T.R. g/m <sup>2</sup> day 38°C, 90% R.H.	** Oxygen Permeability cm <sup>3</sup> /m <sup>2</sup> day atm 23°C, 90% R.H.	† Moisture Intake Thermofomed blister mg/day		
			Average	Min.	Max.
1 p.v.c. 250 micron polystyrene 250 micron + Saranex 23	1	5.3	7.5 6.5	7.2 5.5	9.2 7.8
3 p.v.c. 250 micron + Saranex 23	0.7	5	3.7	3.2	4.9
4 p.v.c. 250 micron coated with 40 g.s.m. p.v.d.c.			6.5	5.9	7.3

\* \*\* Flat, virgin material, measured by Lyssi and Oxtran equipment (sensitivity limit).

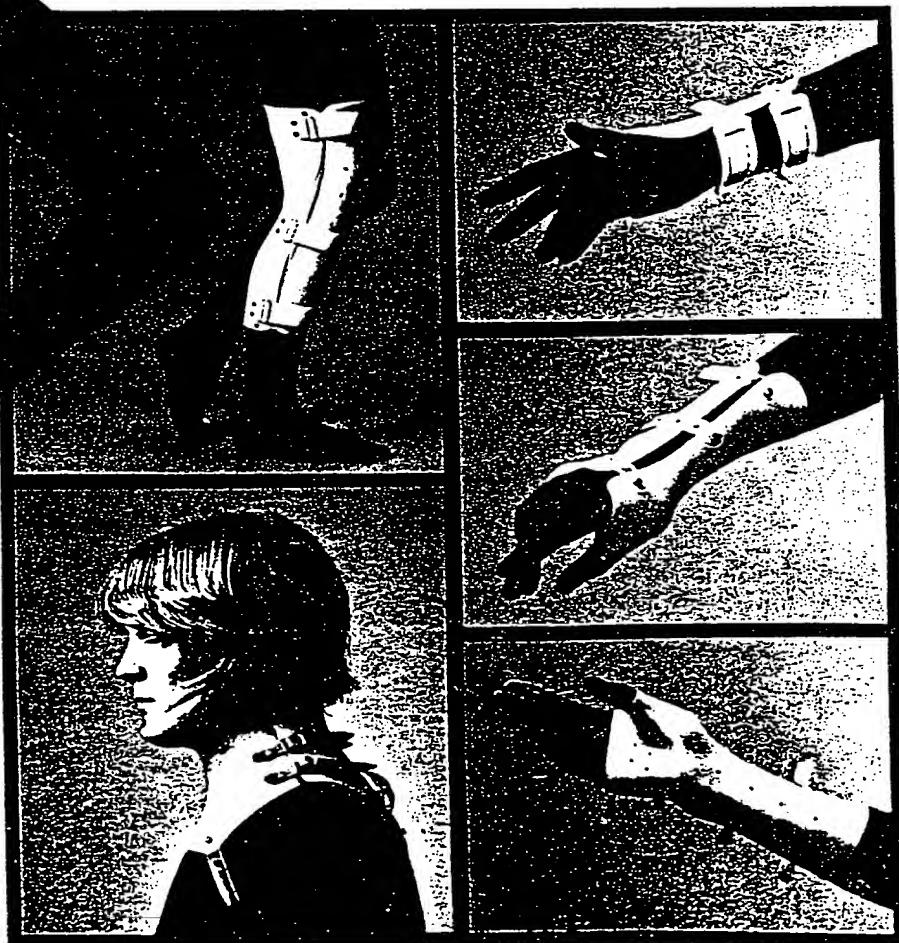
† Thermofomed blister on the same industrial machine, according to U.S.P.A., each blister 10 bubbles of 22 x 12 x 5mm.

Worple Road, Isleworth, Middlesex, TW7 7AU England. Tel: 01-568 6831 Telex: 397918 SS PLAS G Fax: 01-847 5322

# SHEET MATERIALS FOR ORTHOPAEDIC USE

Stanley Smith & Co Plastics Ltd., Isleworth, have engaged in many years of close collaboration and research in orthopaedics to perfect a range of sheet materials for the manufacture of orthopaedic splints and supports of all types.

All these materials are physiologically inert and two of them are pink in colour for the best cosmetic appearance. All three are easily fabricated manually to give light weight, strong, non-irritant, aesthetically pleasing orthopaedic devices.



# PINK POLYTHENE GRADE 2SSAO

- \* The longest established material — more than 20 years successful use.
- \* Pink toned.
- \* Supple yet strong.
- \* Bonds easily to polyethylene foam.
- \* Accepts studs, straps, Velcro fastenings etc., as required.
- \* Very easy moulding.
- \* Sheet sizes 3050 mm x 1525 mm, 1525 mm x 1525 mm, 1525 mm x 762 mm, 762 mm x 762 mm.
- \* Thicknesses 1.6 mm, 3.2 mm, 4.8 mm, 6.4 mm.

# PINK POLYPROPYLENE

- \* Pink colour matches Vitratene pink polythene.
- \* Higher stiffness for larger or more demanding applications.
- \* Accepts studs, straps, Velcro fastenings etc., as required.
- \* Very easy moulding.
- \* Sheet sizes 3050 mm x 1220 mm, 1525 mm x 1220 mm, 1220 mm x 762 mm, 762 mm x 610 mm.
- \* Thicknesses 1.6 mm, 3.2 mm, 4.8 mm, 6.4 mm.

# H.D.R.

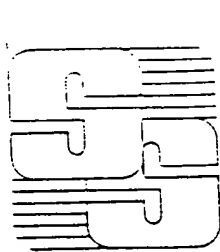
- \* High density, high molecular weight polythene for heavy duty supports and splints.
- \* Natural cream white colour.
- \* Very easy moulding.
- \* Accepts studs, straps, Velcro fastenings etc., as required.
- \* Sheet sizes 3050 mm x 1525 mm, 1525 mm x 1525 mm, 1525 mm x 762 mm, 762 mm x 762 mm.
- \* Thicknesses 1.6 mm, 3.2 mm, 4.8 mm, 6.4 mm.

# NON-STANDARD ITEMS

- \* Vitratene and Vitralene also available in natural colour.
- \* Welding rod in all materials available for special fabrication techniques.
- \* Other sheet sizes and thicknesses available to special order, including 2000 x 1000 mm.
- \* Polished surface finish available to special order.

▷ If you would like a copy of the leaflet describing the original work of Dr. Scales with Vitratene Polythene, please ask our Sales Dept.

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Stanley Smith & Co  
Plastics Ltd

Worple Road Isleworth Middlesex TW7 7AU England Tel 01 568 6831 Telex 397918 SS PLAS G Telegrams Stanmith Isleworth England

# Vitrathene

## POLYTHENE

Stanley Smith & Co produce the widest range of polythene sheet, block, rod and specialist mouldings available in Europe.

The range of materials includes:-

1. Low density - density 0.920
2. Linear low density - density 0.910
3. High density - density 0.955
4. High molecular weight high density - also called '500 grade' - density 0.955
5. Ultra high molecular weight high density - also called '1000 grade' - density 0.940
6. Regenerated ultra high molecular weight high density - grade black PM39 - density 0.940
7. Filled low and high density materials. Fillers include boron, boron carbide, lithium salts, glass, tungsten.

For full details please see Vitrathene leaflet.

8. Flameproof materials. Modification to reduce flammability can be carried out to customer specification.
9. Pink grade 2SSA0 low density polythene in flesh colour for orthopaedic splints - the original material developed in conjunction with Dr. Scales - the world leader for 40 years.
10. Other orthopaedic polyolefines - please see separate leaflet.
11. Specialist materials can be processed to customer requirements to satisfy particular technical specifications. Our technical department can advise on all aspects of this work.

Range of dimensions:-

a. Pressed sheet

Sizes: 1000 x 1000 mm  
2000 x 1000 mm  
3050 x 1220 mm  
3050 x 1525 mm

Thickness: 1.6 to 75 mm

upto 100 mm or 1000 x 1000 mm

b. Extruded sheets

Sizes: 2440 x 1220 mm  
3000 x 1500 mm  
3000 x 1500 mm

Thickness: 1.00 to 12.00 mm

Other sizes available subject to minimum 50 sheet orders.

c. Rods

Upto 1000 mm diameter

d. Billets

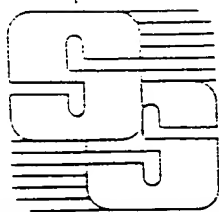
Upto 1500 mm diameter

Upto 1500 mm height

e. Specialist mouldings

To customer drawing





Stanley Smith & Co  
Plastics Ltd

Orple Road Isleworth Middlesex TW7 7AU England Tel: 01 568 6831 Telex: 897918 SS PLAS G Telegrams: Stanmith Isleworth England

# Vitralene

## POLYPROPYLENE

### Pressed Block and Extruded Sheet

Stanley Smith & Co manufacture polypropylene sheet and block in the widest range of sheet sizes and thicknesses in homopolymer and copolymer and in natural, beige, grey, black and special colours and types.

#### MATERIALS

1. Homopolymer - natural, beige, grey and black.
2. Copolymer - natural, beige, grey and black.
3. Regenerated materials based on beige, grey, homopolymer - customers own material can be recycled.
4. Special colours - to colour match subject to minimum 2000 kg (pressed block) or 5000 kg (extruded sheet).
5. Special formulations such as copper stabilised or plateable material available to special order. Our technical department can advise on suitable solutions to specific enquiries.
6. Nodular sheet for the construction of plating and brightening equipment.
7. Orthopaedic material. Standard pink and various specialist polypropylene materials suitable for orthoses and prostheses - please see separate leaflet.

#### RANGE

##### Vitralene Pressed Block

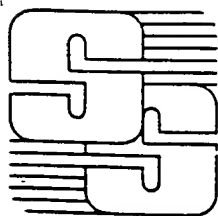
Sizes: 1000 x 1000 mm  
1000 x 1200 mm  
2000 x 1000 mm  
3050 x 1220 mm  
3050 x 1525 mm

Nodular available in these sizes only.  
Thickness: 16 to 75 mm

##### Vitralene E Extruded Sheet

Size: 2440 x 1220 mm  
3000 x 1500 mm  
6000 x 1500 mm

Other sizes subject to 50 sheet minimum.  
Thickness: 1.00 to 12.00 mm



Stanley Smith & Co  
Plastics Ltd

Worple Road · Isleworth · Middlesex · TW7 7AU · England · Tel: 01 568 6831 · Telex: 897918 SS PLAS G · Telegrams: Stanmith · Isleworth · England

# Vitrapad

## CUTTING BOARDS FOR ALL INDUSTRIES

Stanley Smith & Co specialise in the production of cutting boards for all industries.

	POWER PRESS	ROLLER PRESS	CLICKING PRESS	HYTRONIC PRESS	FOOD PREPARATION	RESTAURANT & CATERING	ABATTOIR
VITRALENE pressed polypropylene	✓		✓				
VITRALENE E extruded polypropylene		✓					
Conductive polypropylene				✓			
VITRONE E extruded rigid pvc		✓					
VITRONE KFCB semi-rigid pvc	✓		✓				
VITRATHENE HMW high Molecular weight polythene – pure white natural					✓	✓	✓
VITRATHENE IMW-full colour range					✓	✓	✓

Size range: 1000 x 1000 mm  
2000 x 1000 mm  
2440 x 1220 mm  
3000 x 1220 mm  
3050 x 1220 mm  
3000 x 1500 mm  
3050 x 1525 mm  
6000 x 1500 mm

Thickness range extruded sheet 1.5 to 12.00 mm

Thickness range pressed sheet 2.0 to 75.00 mm

Other size panels available for minimum 50 sheets lots.

Edge finishing and moulding to customer drawings.

All Vitrapad cutting boards (except KFCB) are non-toxic and suitable for all commercial contact with food stuffs.